

NOT FOR CITATION  
IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

PIOTR J. GARDIAS,

No. C04-04086 HRL

Plaintiff,

Consolidated With: C04-04768 HRL  
C05-01242 HRL  
C05-01833 HRL  
C06-04695 HRL

v.

SAN JOSE STATE UNIVERSITY,

**ORDER TO SHOW CAUSE WHY  
PLAINTIFF SHOULD BE GIVEN  
LEAVE TO AMEND COMPLAINT**

Defendant.

On April 25, 2007, plaintiff filed a motion for permission to seek reconsideration of this court's April 17, 2007 discovery order. He filed an amended motion several days later. Because plaintiff failed to raise any grounds warranting reconsideration of the April 17, 2007 discovery order, his motions for leave to seek reconsideration were denied.

Nevertheless, in his motions for reconsideration, plaintiff raised a separate issue as to the status of his pleadings. The issue stems from an apparent dispute between the parties as to whether plaintiff's grievance about Chris Nordby and a Cogeneration Turbine Plant position properly are a part of the instant consolidated action. Defendant has produced requested discovery pertaining to Nordby, but it maintains that the information is irrelevant because the issue was not alleged in any of plaintiff's complaints. For his part, plaintiff contends that he properly did allege issues as to Nordby. Specifically, he says that his August 14, 2006 "Motion

1 to Consolidate” (C04-04086, Docket No. 82) was actually intended to be an amendment to his  
2 complaint filed in Case No. C06-04695. He now appears to request that this “Motion to  
3 Consolidate” be deemed an amended complaint.

4 As previously noted by this court, Nordby is (briefly) referenced in an attachment to  
5 plaintiff’s form complaint in Case No. C06-04695. However, it is not clear whether plaintiff’s  
6 allegations as to Nordby were part of EEOC Charge No. 556-2006-00182 (the apparent basis of  
7 his complaint in Case No. C06-04695). Moreover, at the time the August 14, 2006 “Motion to  
8 Consolidate” was filed, it was not clear that plaintiff intended it to be an amended complaint, as  
9 he now contends.

10 Accordingly, each side will be given an opportunity to brief the issues as to (1) whether  
11 plaintiff’s August 14, 2006 “Motion to Consolidate” should be deemed an amended complaint;  
12 and (2) if the “Motion to Consolidate” is deemed to be an amended complaint, whether plaintiff  
13 has stated a claim for relief as to Nordby. Briefing shall proceed as follows:

- 14 • Plaintiff’s brief shall be filed and served **no later than May 22, 2007**.
- 15 • Defendant’s response shall be filed and served **no later than May 29, 2007**.
- 16 • Plaintiff’s reply shall be filed and served by **June 5, 2007**.

17 If, upon review of the papers, the court determines that a hearing is necessary, it will notify the  
18 parties.

19  
20 Dated: May 9, 2007

  
21 \_\_\_\_\_  
22 HOWARD R. LLOYD  
23 UNITED STATES MAGISTRATE JUDGE  
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1 A copy of this document will be mailed to:

2 Piotr J. Gardias  
72 Floyd Street  
3 San Jose, CA 95110

4 Plaintiff (Pro Se)

5 Mary Susan Cain-Simon  
California State Attorney General's Office  
6 1515 Clay Street, 20th Floor  
P. O. Box 70550  
7 Oakland, CA 94612-0550

8 Counsel for Defendant

9  
10 Dated: 05/09/2007 /s/  
Chambers of Magistrate Judge Lloyd